IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Con.Case(C).No. 1536 of 2004(S)

AGAINST THE JUDGEMENT dated 11/06/2004 IN OP.16897/2002

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PETITIONER:PETITIONER:

A.SHAMSUDEEN, S/O.ALIKUNJU,
MEENAVADI PUTHEN VEEDU, MYLAKKADU P.O.
KOTTIYAM, KOLLAM. - WORKING AS THE RANGE OFFICER
IN FOREST DEPARTMENT.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS: RESPONDENTS:

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1. **R.P.SARMA, AGED ABOUT 55 YEARS,**
   S/O. NOT KNOWN TO THE PETITIONER,
   PRINCIPAL CHIEF CONSERVATOR OF FORESTS,
   FOREST HEAD QUARTERS OFFICE, THIRUVANANTHAPURAM.

2. **ARAVIND K.AVASTHI, AGED ABOUT 52 YEARS,**
   S/O.NOT KNOWN TO THE PETITIONER,
   THE PRINCIPAL ACCOUNTANT GENERAL (A&E)
   KERALA, P.B.NO.5607, M.G.ROAD,
   THIRUVANANTHAPURAM.

3. **KURIAN.P., AGED ABOUT 50 YEARS, S/O. NOT**
   KNOWN TO THE PETITIONER,
   ACCOUNTANT GENERAL (A&E) KERALA,
   P.B.NO.5607, M.G.ROAD, THIRUVANANTHAPURAM.

BY SR.GOVERNMENT PLEADER SRI. NANDAKUMAR

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 17/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

V.GIRI,J.

CON.CASE NO.1536 of 2004

Dated this the 17th day of September, 2007

JUDGMENT

The Contempt of Court Case is instituted on the premise that the directions as contained in the judgment dated 11.6.2004 in O.P.16897/2002 has not been complied with. By a separate judgment, the review petition has been allowed. In the circumstances, there cannot be any contempt in so far as the respondents are concerned. The Contempt of Court Case is therefore closed.

2. In the course of the hearing of the Review Petition No.978/2004, it was brought to the notice of this Court that an error had crept into the judgment in O.P.16897/2002 in as much as that a mandamus was issued to the respondents therein to disburse the DCRG due to the petitioner, apparently on the premise that the writ petitioner was entitled to an amount of Rs.2,67,920/- and the liability noted against him was only Rs.38,853/=. The said facts have been detailed in the judgment in the review petition which has been allowed by a separate judgment.

3. There is nothing unusual about an error brought about by the similarity of the names of two officers in the same department,called **A.Shamsudin** and **M.Shamsudheen** having led to the directions issued by this Court for release of the DCRG, which in an earlier portion of the

judgment was noted as Rs.2,67,920/=. But what is disturbing is the fact that after receipt of the judgment, the writ petitioner who perfectly well knew that the figure of Rs.2,67,920/=, obviously, could not be the amount of DCRG due and found admissible to him, thereafter proceeded to file a Contempt of Court Case against the officers of the Forest Department in CCC No.1536/2004.

In Paragraph-2 of the Contempt of Court Case, this is what he has stated:

> ***"The second respondent admitted his pension and other pensionery benefit on 28.1.2000. The proceedings were passed by the Accountant General, the 2nd respondent which was received by the Chief Conservator of Forest, the first respondent herein on 5.2.2000. Accept DCRG and other pensionery benefits were sanctioned to the petitioner as per order dated 6.3.2004 passed by the Chief Conservator of Forest. The DCRG amount was filth held pending finalization of liabilities reported against the petitioner. The liabilities were quantified as Rs.38853/=. This was intimated to the petitioner by a communication dated 2.4.2000 by the first respondent. The petitioner in his reply disputed the liability and requested to exempt him from the liability. Finally the petitioner expressed his willingness to receive the balance DCRG after deducting the amount of liabilities fixed against him. The Chief conservator of Forest accorded sanction on 15.1.2002 to release the DCRG to the petitioner after withholding the liabilities due to the Government. The DCRG admitted by the Accountant General is Rs.2,67,920/=."***

4. The dates and the figures given above seems to be a deliberate mistake. In the circumstances, there seems to have been a conscious attempt on the part of A.Shamsudin to take advantage of an error

which crept into the judgment of this Court in O.P.16897/2007. In my view, this, prima facie, would constitute an attempt to obstruct the administration of justice and would also, therefore, constitute contempt within the meaning of Contempt of Courts Act, 1971.

5. The Registry is therefore directed to register a contempt of court case against Sri.Shamsudin, as noted hereunder and issue notice as to why he should not be proceeded against under Article 215 of the Constitution read with Contempt of Courts Act 1971.

6. Issue notice returnable within a period of six weeks. Copy of the judgment in R.P.978/2004 will also stand incorporated as part of this order and certified copy of the said order shall also be sent to the alleged contemnor, along with this order and summons in the contempt case.

Name and address of the person to whom notice is to be issued:

Sri.A.Shamsudin,
S/o Alikunju,
Menavadi Puthen Veedu,
Mylakkad P.O., kottiyam,
KOLLAM.

V.GIRI, JUDGE

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COC NO.1536/2004 : 4:

COC NO.1536/2004 : 5: